

1 HONORABLE BENJAMIN H. SETTLE  
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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT TACOMA

8 HP TUNERS, LLC, a Nevada limited liability )  
9 company, ) CASE NO. 3:17-cv-05760-BHS  
10 Plaintiff, )  
11 vs. ) **DECLARATION OF ANDREW P.**  
12 KEVIN SYKES-BONNETT and SYKED ) **BLEIMAN, ESQ. IN SUPPORT OF**  
13 ECU TUNING INCORPORATED, a ) **PLAINTIFF'S MOTION FOR**  
Washington corporation, and JOHN ) **PROTECTIVE ORDER TO ADJOURN**  
MARTINSON, ) **OR MODIFYING THE SUBPOENA OF**  
14 Defendants. ) **KENNETH CANNATA**

15 I, Andrew P. Bleiman, Esq., of full age and competency, do hereby certify and say  
16 as follows:

17 1. I am of legal age, have personal knowledge of the facts provided herein and, if  
18 called as a witness, could and would testify competently to those facts.

19 2. I am a licensed attorney in the State of Illinois and am a member in good standing  
20 of the Illinois bar.

21 3. I have been a licensed attorney in the State of Illinois since 1998.

22 4. I have been admitted to practice in connection with this matter on a *pro hac vice*  
23 basis.

24 5. I am a partner with the law firm Marks & Klein, LLP.

25 6. I am lead counsel to HP Tuners, LLC ("HP Tuners" or "Plaintiff") in connection

1 with this matter.

2       7. This Declaration is submitted in support of Plaintiff's Motion for Protective Order  
3 to Adjourn or Modify the Subpoena of Kenneth Cannata.

4       8. On April 9, 2019, I was copied on an email from Phil Mann, counsel to  
5 defendants Kevin-Sykes-Bonnett and Syked ECU Tuning, Inc. ("Defendants") to Bert Larsen,  
6 counsel for Kenneth Cannata ("Cannata") issuing a subpoena for deposition and the production  
7 of documents to Cannata (the "Subpoena"), and simultaneously serving me with the Subpoena.

8       9. The Subpoena is dated April 9, 2019, and demands Cannata appear for deposition  
9 and produce documents on April 19, 2019, a mere ten (10) days after its issuance. A true and  
10 correct copy of the Subpoena is attached hereto as Exhibit A.

11     10. Plaintiff has obtained detailed evidence that Cannata, a former owner of HP  
12 Tuners, conspired with Defendants since before his interest in HP Tuners was purchased,  
13 misappropriated HP Tuners' intellectual property, and unlawfully provided HP Tuners'  
14 intellectual property to Defendants. As such, Cannata is a crucial witness to Plaintiff in this  
15 matter, and Plaintiff's preparation for Cannata's deposition will require a significant time  
16 commitment.

17     11. I will not have sufficient time to prepare for Cannata's deposition if it is held on  
18 April 19, 2019. I am based in Illinois. Today, April 10, 2019, I am in Reno, Nevada for the  
19 deposition of Bobbie Cannata, Kenneth Cannata's wife and a shareholder in Syked EDU Tuning,  
20 Inc. Next week, on April 16, 2019, I will be traveling to Quebec City, Quebec for the April 17,  
21 2019 deposition of Christopher Breton-Jean, also in connection with this matter. We scheduled  
22 the deposition of Mr. Breton-Jean on that day as an accommodation to Mr. Sykes-Bonnett  
23 because of his scheduled family vacation.

24     12. In addition, expert reports in this matter are due April 22, 2019, and I will need to  
25 devote substantial time to their preparation next week. Finally, the Passover holiday, which I

celebrate, is set to begin on the April 19, 2019, the date Defendants demand to depose Cannata. Accordingly, the other, previously negotiated and scheduled dates and deadlines in this matter, as well as my religious commitments, will preclude me from adequately preparing for the Cannata deposition before April 19, 2019.

13. Given these numerous constraints, upon receiving the Subpoena, I immediately reached out to Defendants' counsel, Phil Mann, to discuss rescheduling Cannata's deposition. Defendants' counsel abruptly and unreasonably, without adequate explanation, refused to do so.

14. Although I have unilaterally scheduled other depositions in connection with this matter, as I am entitled to do under the Federal Rules of Civil Procedure, I have never used the unilateral scheduling of a deposition as a tactical device to gain an unfair advantage in the proceedings.

I declare under penalty of perjury under the laws of the United States of America the foregoing is true and correct to the best of my knowledge.

Executed on April 10, 2019.

By: s/ Andrew P. Bleiman  
Andrew P. Bleiman

**CERTIFICATE OF SERVICE**

I hereby certify that on April 10, 2019, I caused the foregoing to be electronically filed with the Clerk of Court using the CM/ECF system which will electronically send notice to all Counsel of Record.

HEURLIN, POTTER, JAHN, LEATHAM,  
HOLTMANN & STOKER, P.S.

s/ Stephen G. Leatham  
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